

<sup>2</sup>See Letter of Donald G. Creamer, Jr. to the Anchorage Resident Agent Office (April 13, 2004).

5. On July 20, 2004, an Anchorage agent issued a LOI to Schikora and the Horner Trust, requesting information concerning the ownership and painting status of antenna structure #1005017. The July 20, 2004 LOI specifically noted that the owner of an antenna structure must immediately notify the Commission using FCC Form 854 of any change in ownership information. On July 26, 2004, Schikora called the agent to discuss the LOI. The agent explained to Schikora that he needed to submit a written response to the LOI. The agent also advised Schikora of the requirement that he immediately change the antenna structure ownership information on the ASR. On August 9, 2004, the Anchorage Resident Agent Office received a response to the LOI issued to Schikora and the Horner Trust.<sup>3</sup> The response stated that Schikora and the Horner Trust did own antenna structure #1005017, that the antenna structure was currently being repainted, and that a Statutory Warranty Deed had been recorded locally in the Fairbanks, Alaska Recording District. The response failed to indicate, however, what steps Schikora and the Horner Trust had taken to ensure that the FCC ASR for antenna structure #1005017 reflected Schikora and the Horner Trust as the current owners. Until November 16, 2005, the Commission's ASR database continued to reflect Donald G. Creamer, Sr. as the antenna structure registrant for antenna structure #1005017.

6. On December 13, 2004, the Anchorage Office issued a *NAL* in the amount of \$3,000 to Schikora and the Horner Trust.<sup>4</sup> In the *NAL*, the Anchorage Office found Schikora and the Horner Trust apparently willfully and repeatedly failed to immediately notify the Commission of a change in the ownership information of the ASR's for antenna structure #1005017. Schikora filed a response to the *NAL* on January 7, 2005 ("*Response*").<sup>5</sup> Schikora's *Response* consists solely of a print-out of his FCC Registration Number registration form along with a note stating "proof of registration."

### III. DISCUSSION

7. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,<sup>6</sup> Section 1.80 of the Rules,<sup>7</sup> and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.<sup>8</sup> In examining Schikora's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>9</sup>

8. Section 17.57 of the rules requires the owner of an antenna structure to immediately notify the Commission using FCC Form 854 upon any change in structure height or change in ownership information.<sup>10</sup> The Commission requires antenna structure owners to maintain current antenna structure registration information with the Commission and post ASR numbers at the base of antenna structures to

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<sup>3</sup>See Letter of Gary M. Schikora to the Anchorage Resident Agent Office (August 4, 2004).

<sup>4</sup>*Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200532780004 (Enf. Bur., Western Region, Anchorage Office, released December 13, 2004).

<sup>5</sup>We are treating Schikora's response as a response on behalf of Schikora and the Horner Trust.

<sup>6</sup>47 U.S.C. § 503(b).

<sup>7</sup>47 C.F.R. § 1.80.

<sup>8</sup>12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999).

<sup>9</sup>47 U.S.C. § 503(b)(2)(D).

<sup>10</sup>47 C.F.R. § 17.57. Section 303(q) of the Act gives the Commission authority to regulate certain antenna structures if and when such structures constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation. 47 U.S.C. § 303(q).

allow for easy contact if problems arise.<sup>11</sup> Schikora's *Response* indicates that he received an FCC registration number. However, it does not indicate that he or the Horner Trust updated the ownership information for antenna structure #1005017 and the Commission's records do not reflect that Schikora and the Horner Trust ever updated the ownership information. On November 16, 2005, the Commission's ASR database was updated to show Tanana Valley State Fair Association as the registrant of antenna structure #1005017.

9. We have examined Schikora's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Schikora and the Horner Trust willfully and repeatedly violated Section 17.57. Considering the entire record and the factors listed above, we find that neither reduction nor cancellation of the proposed \$3,000 forfeiture is warranted.

#### IV. ORDERING CLAUSES

10. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Gary M. Schikora and the George Horner Trust **ARE LIABLE FOR A MONETARY FORFEITURE** in the amount of \$3,000 for willfully and repeatedly violating Section 17.57 of the Rules.<sup>12</sup>

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>13</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911- 6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director – Financial Operations, Room 1A625, 445 12th Street, S.W., Washington, D.C. 20554.<sup>14</sup>

12. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Gary M. Schikora and George Horner Trust, P.O. Box 75458, Fairbanks, Alaska 99707.

#### FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch  
Regional Director, Western Region  
Enforcement Bureau

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<sup>11</sup>See, e.g., *Spectrasite Communications, Inc.*, 18 FCC Rcd 22799, 22800 (2003).

<sup>12</sup>47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 17.57.

<sup>13</sup>47 U.S.C. § 504(a).

<sup>14</sup>See 47 C.F.R. § 1.1914.